GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Tribal Welfare Department – West Godavari District - Revision Petition filed by Sri Uppala Venkata Rao S/o Ramaiah R/o Ramannagudem (V) Buttaigudem (M) West Godavari District against the orders of the Agent to Government, West Godavari, dt:21-07-2001 in SRA. No.16/99 with regard to Ac.1.00 cts in R.S.No.27/1 at Ramannagudem (V), Buttaigudem (M,) West Godavari District – Dismissed – orders – issued.

SOCIAL WELFARE (TW.LTR-1) DEPARTMENT

G.O.MS.No. 110 **Dated: 23-11-2016**
Read the following:-

1. Revision Petition filed by Sri Uppala Venkata Rao S/o Ramaiah, West Godavari, dated:04.10.2001.
2. Govt.Memo.No.16649/TW.LTR-1/2001, dated.20.11.2001.
3. From the Agent to Government/ Special Deputy Collector, K.R.Puram, West Godavari District, Rc.No.591/2003/(A), dated.22.09.2004.
4. Govt.Lr.No.16649/TW.LTR-1/2001, dated.03.05.2016.

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ORDER:-

In the reference 1st read above, Sri Uppala Venkata Rao S/o Ramaiah R/o Ramannagudem (V) Buttaigudem (M) West Godavari District has filed Revision Petition before the Government aggrieved by the orders of Agent to Government & District Collector, Eluru, West Godavari passed in SRA. No.16/99, dt:21-07-2001 wherein the Agent to Government has confirmed the orders of eviction passed by Special Deputy Collector of Tribal Welfare, K.R. Puram in S.R.No.454/1998, dt.27-02-1999 with regard to the land in Sy. No.27/1 of Ramannagudem Village measuring an extent of AC 1-00 cts.

2. The Government, in the reference 2nd read above, have admitted the said Revision Petition and requested the Agent to Government, Eluru, West Godavari District and Special Deputy Collector, K.R.Puram, West Godavari District to furnish the parawise remarks and connected records on the Revision Petition.

3. In the reference 3rd read above, the Special Deputy Collector, K.R.Puram, West Godavari District has furnished parawise remarks along with the connected records.

4. The case of the Revision Petition is in brief is that the order of the eviction is contrary to the law and that he was compelled to file a writ petition before the High Court of AP in WP. 18421/2001 questioning the order of first respondent (i.e. Agent to Government) and the Hon'ble court was pleased to direct the petitioner to file Revision Petition before the Government of AP within 4 weeks and directed to maintain the status quo with regard to the possession in the mean while.

5. Accordingly this revision petition is filed and the grounds urged there in are as follows:
   1. This first respondent i.e. Agent to Government failed to appreciate that there is no contravention under AP SALT Regulation has held by the 2nd respondent i.e. Special Deputy Collector, K.R. Puram.
   2. That the proceedings are hit by Res-Judicata.
   3. That the impugned order is the consequence of non application of mind by the respondents.
   4. There is no prohibited alienation..etc.

6. The order of the primary authority(SDC) in brief is that there was transfer of land effected for an extent of Ac 1-00 cts in Sy. No.27/1 in favour of the maternal aunt of Uppala Venkata Rao by an unregistered sale agreement and a Regd. Sale deed bearing Doc no. 1293/74.

(P.T.O)

7. Hence, the Special Deputy Collector after enquiry, has ordered for ejectment of the Revision Petitioner herein from the above schedule land against which the appeal was filed before the Agent to Government which was confirmed, upholding the orders of the eviction against which the present revision.

8. Now the point for consideration is whether the order of Agent to Government is sustainable under law or liable to be interfered with.

9. Admittedly, there has been alienation of the schedule land in favour of the Maternal Aunt by virtue of Regd. Sale deed bearing Doc No. 1293/74 which is apparently after 03-02-1970 from which date the AP SALT regulation came into force.

10. The matter having been stood over for consideration was adjourned from time to time and finally taken up for hearing and after hearing the arguments of council for the revision petitioner on 14-05-2016, it has been observed that the Ex.R2 Sale Deed doesn't speak anything about the agreement marked as Ex. R1 even if such a recital is there the sale deed basically is hit under Sec 3(2)(a) of AP SALT regulation which prohibits any alienation in favour of a non tribe after 03-02-1970. The nomenclature of Ex.R2 is Kriyadasta vejhu so there is sale of interest (right & possession) in immovable property under Ex.R2 which is in favour of a non tribe and the same is void.

11. The so called agreement under Ex. R1 or the orders under Ex. R3 are of no avail and the order of Special Deputy Collector impugned herein is perfectly right. There is also a prohibition of Registration of Documents in favour of any person other than a schedule tribe, as contemplated under Sec 3(b) of said regulation and the said regulation also provides for Penalty and prosecution as per the sec 6A and 6B.

12. Therefore the alienation is void and the provisions of the said regulation are mandatory. The said regulation is meant for the welfare of the schedule tribes but not anybody else whom so ever it may be. The prohibition under the above regulation is absolute and affirmative in action.

13. It being a special regulation meant for the welfare of the schedule tribes it cannot be interpreted as is to nullify the spirit of the said regulation, the C.P.C is applicable so far as it is not repugnant to the above regulation. As per the Judgment of Hon’ble Supreme Court in samatha’s case which is reported in Samatha Vs State of AP and others on 11-07-1997 as reported in 1997 Supp(2) SCR 305 that the above regulation is meant for welfare of Schedule tribes only & once there is any alienation in favour of non-tribe after 03-02-1970 it is null and void.

14. The order of Special Deputy Collector, in Sr.No.318/1993 dated.28-01-1995 where in there was no reference about regd. Sale deed dated.23-09-1974 and the said document was obviously was not exhibited before the said court. Therefore there was neither issue nor adjudication on the validity of the said sale deed.

15. Hence the principle of Res-Judicata is not applicable.

16. Therefore the previous orders of Special Deputy Collector, in LTR 318/1993 do not operate as a Res-Judicata and the said order is perfectly valid and hence the same was confirmed by the agent to Government in the appeal.

17. Therefore the Government is of considered opinion that the orders of the both the authorities i.e. Agent to Government and Special Deputy Collector are as per law and they are intended to protect the interest of Schedule tribe community by disallowing the claim of the revision petitioner as there was a prohibited transfer by regd. Sale deed dated 23-09-1974.

(Cont…)

18. In revision cases also the government in principle is receiving the additional documents and considering the same in order to ensure, that the justice is rendered to the parties at any cost but in the instant case no additional evidence is placed by the revision petitioner, despite several opportunities having been given to her.

19. In the result the revision petition is dismissed and the orders passed by the Special Deputy Collector, K.R. Puram and the learned Agent to Government, Eluru, West Godavari District are confirmed.

20. The Agent to Government, West Godavari District, Eluru is requested to take necessary action in the matter accordingly.

21. The original record bearing SRA. No.16/99 and SR.No.454/98 received from the Agent to Government/ District Collector, West Godavari District, Eluru, through reference 3rd read above, is returned herewith and he is requested to acknowledge the receipt of the same immediately.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

R.P. SISODIA
PRINCIPAL SECRETARY TO GOVERNMENT

To
The District Collector & Agent to Government, West Godavari District, Eluru (w.e. original record)
The Special Deputy Collector, K.R.Puram, West Godavari District.
The Mandal Revenue Officer, Buttaigudem, West Godavari District.
Copy to:
Sri P.R.K. Amarendra Kumar, Advocate, 406, Sterling Majestic Apartments, Padmarao Nagar, Secunderabad-25.
Sri Uppala Venkata Rao S/o Ramaiah, R/o Ramannagudem Village, Buttaigudem Mandal, West Godavari District.
The P.S to Hon'ble Minister (SWE & TWE) for information.
The P.S to Principal Secretary to Government (TW).
SF/SC.

// FORWARDED :: BY ORDER //

SECTION OFFICER